

~~DO NOT FILE~~

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FRANCISCO DOMINGUEZ,	)	No. C 12-5896 RMW (PR)
Petitioner,	)	ORDER DENYING PETITIONER'S
vs.	)	MOTION TO PROCEED IN FORMA
	)	PAUPERIS ON APPEAL
WARDEN HEIDI M. LACKNER,	)	(Docket No. 28)
Respondent.	)	

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Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his conviction and sentence imposed by the Superior Court of Contra Costa County. Petitioner paid the filing fee. On February 18, 2014, the court granted respondent's motion to dismiss the petition as untimely, and entered judgment for the respondent. On March 20, 2014, petitioner gave his timely notice of appeal to prison officials for mailing. On April 28, 2014, petitioner filed the instant motion to proceed in forma pauperis on appeal.

Pursuant to Federal Rule of Appellate Procedure 3(e), an appellant must pay the district clerk all required fees upon filing a notice of appeal. Moreover, "a party to a district court action who desires to appeal in forma pauperis must file a motion in the district court." Fed. R. App. P. 24(a). Petitioner has not attached an affidavit showing his inability to pay or to give security for fees and costs, claiming an entitlement to redress, and stating the issues that he intends to present

1 on appeal in accordance with the Federal Rules of Appellate Procedure. See Fed. R. App. P.  
2 24(a)(1). Accordingly, the motion is DENIED without prejudice to renewing the motion in the  
3 Ninth Circuit Court of Appeal.

4 The Clerk shall serve notice of this order forthwith to the Ninth Circuit Court of Appeal  
5 and to the parties. See Fed. R. App. P. 24(a)(4).

6 **IT IS SO ORDERED.**

7 DATED: FFD:EW

  
RONALD M. WHYTE  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

FRANCISCO DOMINGUEZ,

Case Number: CV12-05896 RMW

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

WARDEN HEIDI M. LACKNER,

Defendant.

/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 12, 2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Francisco Dominguez F-22191  
Valley State Prison (VSP)  
PO Box 96  
Chowchilla, CA 93610-0096

Dated: November 12, 2014

Richard W. Wieking, Clerk  
By: Jackie Lynn Garcia, Deputy Clerk